Summary of Annual Report
The Ombudsman Hong Kong

2010

“Discover
the
truth”

“ All truths are easy to understand

once they are discovered;

the point is to discover them. ”

two circles are in same size

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June 2010

Performance and Results

Enquiries and Complaints Processing

Fig. 1

Enquiries and Complaints Received

Year	Enquiries	Complaints	
		only for us*	including those copied to us
2005/06	14,633	3,828	4,266
2006/07	15,626	5,606	6,114
2007/08	12,169	4,987	5,419
2008/09	14,005	5,386	5,945
2009/10	13,789	4,803	5,329

* These figures exclude "complaints to others copied to us".

We received 13,789 enquiries and 4,803 complaints this year. With 970 complaints brought forward from last year and 96 "re-opened", complaints for processing this year totalled 5,869.

The trend of topical complaints lodged by groups has continued, yielding 393 complaints of this nature, against 853 last year. The "minibond" saga remained the major cause for topical complaints, resulting in 267 cases. Other less popular issues included those on the acquittal by the Court of a foreign domestic helper prosecuted for some serious misconduct and a Regional Transfer scheme offered by the Housing Department.

Email has remained the most popular channel for complaint and use of our pre-paid complaint forms significantly decreased from last year's 1,300 (24.1%) to 863 (18.0%) this year.

Complaints lodged in person has been rising in the past three years, from 251 (5.0%) in 2007/08 to 370 (6.9%) last year and 413 (8.6%) this year. Similarly, complaints by telephone rose in the same period from 288 (5.8%) to 375 (7.0%) and then 531 (11.0%). Both modes provide direct contact with the complainant.

Fig. 2

Mode of Lodging Complaints

Mode	2005/06	2006/07	2007/08	2008/09	2009/10
In person	231	412	251	370	413
In writing –					
by complaint form	613	586	486	1,300	863
by letter through post	1,303	1,002	1,829	936	870
by fax	863	836	753	890	764
by email	902	2,461	1,380	1,515	1,362
By telephone	354	309	288	375	531
Total	**4,266**	**5,606**	**4,987**	**5,386**	**4,803**

Note: Figures from 2006/07 onwards exclude "complaints to others copied to us".

Outcome of Inquiries

We concluded 126 complaints by full investigation, with 75 or 59.5% substantiated, partially substantiated or substantiated other than alleged. This compared with 65% last year (topical complaints excluded).

Fig. 3

Substantiation of Complaints Concluded by Full Investigation

Outcome	No. of Complaints	Percentage
Substantiated	32	25.4%
Partially substantiated	38	30.1%
Substantiated other than alleged	5	4.0%
Unsubstantiated	51	40.5%
Total	**126**	**100%**

Direct Investigation

We completed seven direct investigations and eight direct investigation assessments, with another six direct investigations in progress at the end of the year.

Fig. 4

Direct Investigation Reports Completed in 2009/10	
Date	**Subject**
27 May 2009	System for Development of Question Papers in Public Examinations
2 June 2009	Procedures for Processing Chained-transactions Involving Transfer/ Retention of Vehicle Registration Marks
24 August 2009	Housing Department's Handling of Complaints Involving Claims
24 August 2009	Regulatory System of Lifts
23 October 2009	Granting of Disability Allowance and Processing of Appeals by Social Welfare Department
22 January 2010	Checking of Eligibility for Subsidised Public Hospital and Health Services
22 January 2010	Effectiveness of Administration of Code on Access to Information

Recommendations

On conclusion of our inquiries, we make recommendations and suggestions for administrative improvement where appropriate. We made 141 recommendations on completion of 126 full investigations, mostly on complaints that were substantiated, partially substantiated or substantiated other than alleged. Apart from fully investigated complaints, 62 recommendations relate to our seven direct investigations, giving a total of 203 recommendations. So far, 195 (96.10%) of them have been accepted by the organisations for implementation and 6 (3.0%) are still under consideration. Two have been dropped subsequently: one for practical reasons accepted by us and the other overtaken by events.

Our Performance

Fig. 5

(a) Response Time for Acknowledgement/ Initial Assessment

Year	Response Time		
	Within 5 working days (target : 80%)	Within 6-10 working days (target : 20%)	More than 10 working days
2009/10	99.89%	0.11%	0.00%

(b) Processing Time for Cases Outside Jurisdiction or Under Restriction

Year	Response Time		
	Within 10 working days (target : 70%)	Within 11-15 working days (target : 30%)	More than 15 working days
2009/10	78.9%	16.3%	4.8%

(c) Processing Time for Other Cases Concluded

Year	Response Time		
	Less than 3 months (target : 60%)	Within 3-6 months (target : 40%)	More than 6 months
2009/10	54.7%	43.2%	2.1%

Reward and Challenge

Enhancing Quality Administration

Often, organisations under investigation introduce improvement measures themselves upon our referral of a complaint to them for response. We commend such proactive initiative. They result in higher quality services, more efficient operation, better enquiry or complaint management: in brief, more effective client services and more open administration.

Code on Access to Information

Code-related complaints have seen a significant increase from 24 the year before to 43. Responding to our direct investigation during the year, the Constitutional and Mainland Affairs Bureau introduced a series of measures to step up promotion of awareness and to strengthen training on the Code within the Administration.

Addressing Systemic Issues

In the course of our investigation, we will identify deficiencies stemming from broader or deeper systemic issues and bring them to the attention of the heads of the organisations or policy bureaux concerned. Where justified, we raise them with the Central Administration or conduct a direct investigation.

Compartmental Mentality

Some Government departments tend to interpret departmental roles and responsibilities narrowly: they fail or refuse to see themselves as arms of the one and the same Government. The result is inaction and poor inter-departmental coordination. In a direct investigation concluded this year, we found the Housing Department to consider a complaint involving claims merely as a matter to be dealt with by its insurer, overlooking its own duty to get to the root of the problem and to improve its services.

In another case, we found the delineation of responsibility between the Lands Department and the Buildings Department ("BD") for enforcement against unauthorised

building works in the New Territories to depend on whether the works in question were considered as "works in progress". With this, a compartmentalised mentality could easily lead to inaction by both Departments against such unauthorised works. A direct investigation to examine this issue more thoroughly is now in progress.

Accountability

Another area of concern is the tendency for the management to attribute fault too readily to frontline staff, forgetting their supervisory accountability. In a seepage case, the Food and Environmental Hygiene Department ("FEHD") readily admitted the omission by a frontline officer who subsequently resigned but did not focus on his responsibility as supervisor to monitor staff action. Our inquiries further found that a monitoring system, which FEHD had assured us to have put in place subsequent to a similar case the year before, had not been effective in the present case. It is worrying that such glaring lack of supervision was not mentioned by the FEHD management when responding to our inquiries.

Water Seepage and the Joint Office

There has been some progress on implementation of our recommendations for improvement. The Joint Office ("JO") has established clearer work procedures, monitoring mechanism and guidelines on division of work between the two departments staffing the JO, FEHD and BD. Meanwhile, the Development Bureau has been conducting internal consultation for an appropriate organisational structure and *modus operandi* for the JO.

The Lands Tribunal has since July 2009 adopted mediation as a standard practice to resolve building management and maintenance disputes, including those over seepage.

We look forward to the Administration's further progress in reorganising the JO with a formal head empowered with proper authority over staff and operational matters and in setting up a dedicated tribunal with powers to order seepage investigation and remedial repairs.

Public Safety

Public safety was a particular focus this year. We examined the regulatory system of lifts by direct investigation, initiated in the wake of a series of lift accidents the year before. This brought to light the need for improvement in the regulatory system to protect public safety.

Road safety was another of our concern. We examined the action by the Transport Department to tackle speeding by public light buses. We conducted a study on the procedures for enforcement of the Driving-offence Point System.

A third area of our attention was fire safety, triggered by a case where fire safety was apparently not a requirement for renewal of food business licences. In this connection, our direct investigation probed into the measures taken by the Fire Services Department for ensuring fire safety in commercial buildings and FEHD practices in granting and renewing food business licences.

Challenges from Parties

Re-assessment of Cases

During the year, we received 227 requests for re-assessment, 131 of which did not justify re-opening the case. The remaining 96 requests were subsequently re-opened, mostly because the complainant had provided new information or fresh evidence. Last year, the corresponding figures were 225 requests, with 161 declined and 64 re-opened for inquiry.

Review of Cases

With 147 requests for review (246 last year), we declined 80 because they presented no new evidence or argument. For the remaining 67 requests, decision was varied in eight cases (seven in 2008/09) after review and upheld for the rest.

Persistent Complainants

As with all other organisations that handle complaints, our Office faces a fair number of persistent complainants. A few can be quite unreasonable, verging on abuse of the system and even disrupting our operation with impact on other complainants. In dealing with such situations, we are mindful of the need to maintain professionalism. We focus on the substance of the complaint, not the extraneous efforts for entertaining the numerous calls or visits of the complainants. We adhere always to our firm principles of impartiality and objectivity. We serve one and all with equal care and commitment.

Judicial Review

Three cases came up for judicial review last year but all failed to obtain leave. One has since, upon appeal, obtained leave for review. This concerns The Ombudsman's decision regarding representation of a complainant by legal counsel. The Office has filed an affirmation to the High Court and hearing is set for September 2010.

Jurisdictional Review

On 14 April 2009, the Director of Administration agreed to include four organisations in Part I of Schedule 1 to The Ombudsman Ordinance, namely:

Auxiliary Medical Service;
Civil Aid Service;
Consumer Council; and
Estate Agents Authority.

The former Ombudsman had originally recommended the inclusion of eight bodies.

These four organisations are expected to come within our jurisdiction from July 2010.

Office Administration

To meet the increasing caseload, we established a sixth team for investigation of cases implicit in July 2009.

We organised a series of induction programmes to equip our staff with requisite skills and to facilitate integration of new entrants into their new working environment. Apart from in-housing training, we sent three of our investigation officers for overseas exposure to widen their outlook. Training is important for sharpening the skills of staff for efficient and effective discharge of their duties.

External Relations

This year's information campaign focussed on enhancing public understanding of our purview and restrictions. In November 2009, info-service filmclips were broadcast on TV as well as public buses. We also adopted a new mode for public education: publishing articles on the jurisdiction of The Ombudsman in a free news daily from November to December 2009.

Every year, The Ombudsman's Awards commend public organisations and officers who demonstrate professionalism and high standard in their service. This year's Grand Award went to the Legal Aid Department. The Customs and Excise Department, the Lands Registry and 19 public officers were also honoured.

The Ombudsman was elected a Board member in the International Ombudsman Institute ("IOI") World Conference-cum-Board Meeting in Stockholm, Sweden in June 2009. The Ombudsman also took part in the Asian Ombudsman Association Conference in Bangkok, Thailand and the IOI Board of Directors Meeting in Vienna, Austria in November 2009 and joined the 25th Australasian and Pacific Ombudsman Region Conference and regional meeting in Canberra, Australia in March 2010. These contacts help Hong Kong to maintain cooperative interface with Ombudsman institutions worldwide and offer opportunities for exposure and enhancement for our Office.

In June 2009, The Ombudsman and six colleagues visited Mainland for a week. The delegation met with officials in Beijing, Hunan and Fujian. Both parties benefited a lot from bilateral sharing of experiences.

Looking Ahead

In striving for ever better systems and practices in public administration, we will continue to take reference from views of the public and from ombudsman practices elsewhere.

Fig. 6 Caseload

	Reporting year#				
	05/06	06/07	07/08	08/09	09/10
(A) Enquiries received	**14,633**	**15,626**	**12,169**	**14,005**	**13,789**
(B) Complaints received@	**4,266**	**5,606**	**4,987**	**5,386[853]**	**4,803[393]**
(C) Complaints brought forward	**719**	**676**	**942**	**1,285**	**970**
(D) Re-opened cases Σ	**-**	**-**	**-**	**-**	**96**
(E) Complaints for processing = (B) + (C) + (D)	**4,985**	**6,282**	**5,929**	**6,671**	**5,869**
(F) Complaints handled and concluded	**4,309**	**5,340**	**4,644**	**5,701[1,225]**	**4,775[402]**
(i) Complaints pursued	**1,825**	**1,716**	**1,977**	**2,684[411]**	**2,215[302]**
By preliminary inquiries	**1,758**	**1,643**	**1,938**	**2,437[224]**	**2,086[302]**
By referral to complainee departments/ organisations for replies (INCH)	185	143	81	148	236
By rendering assistance/clarification (RAC)	1,573	1,500	1,857	2,289[224]	1,850[302]
By full investigation	**55**	**71**	**38**	**247[187]**	**126**
- Withdrawn/Discontinued	2	0	1	1	0
- Substantiated	13	15	9	21	32
- Partially substantiated	14	16	13	171[161]	38
- Unsubstantiated	26	39	14	20[1]	51
- Inconclusive^	0	0	0	0	0
- Substantiated other than alleged	0	1	1	34[25]	5
By mediation	**12**	**2(6*)**	**1(3*)**	**0(0*)**	**3(1*)**
(ii) Complaints screened out	**1,113**	**2,385**	**1,246**	**1,108[100]**	**1,114[45]**
- Restrictions	351	394	375	477[76]	418[20]
- Outside jurisdiction	762	1,991	871	631[24]	696[25]
(iii) Complaints not pursued	**1,371**	**1,239**	**1,421**	**1,909[714]**	**1,446[55]**
- Discontinued	137	57	436	110[38]	71[6]
- Withdrawn	147	164	157	245	218[3]
- Not undertaken@	1,087	1,018	828	1,554[676]	1,157[46]
(G) Percentage of complaints concluded = (F) ÷ (E)	**86%**	**85%**	**78.3%**	**85.5%**	**81.4%**
(H) Total cases carried forward = (E) - (F)	**676**	**942**	**1,285**	**970**	**1,094**
(I) Number of direct investigations completed	**4**	**4**	**4**	**6**	**7**
(J) Direct investigation assessments completed	**6**	**5**	**2**	**4**	**8**

\# From 1 April to 31 March of the next year.
@ From 2006/07, these exclude "complaints to others copied to us".
Σ Including cases which had been closed for being unpursuable in previous year but subsequently became pursuable and re-opened for inquiry in current year and cases reviewed by full investigation (not available before 2009/10).
^ Previously "Incapable of determination".
* Number of cases attempted for mediation but not accepted by party(ies) concerned (not available before 2006/07).
[ ] Number of topical cases (not available before 2008/09).